

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2374 OF 2019**

1. Rupesh Bhagwan Kadam	
2. Suresh Pandit Madke	...Applicants
Versus	
The State of Maharashtra	...Respondent

Mr. Sachin B. Thorat for the Applicants

Mr. S. S. Hulke, A.P.P for the Respondent-State

API Mr. R. D. Londhe, from Padgha Police Station, Thane (Rural), is present

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 16th OCTOBER 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicants seek their enlargement on bail in connection with C.R. No. I-368 of 2018 registered with the Padgha Police Station, Thane, for the alleged offences punishable under Sections 302, 143, 146, 147 & 149 r/w 34 of the Indian Penal Code.

3 Perused the papers. The prosecution case rests on circumstantial evidence. According to the prosecution, in the intervening night of 15th & 16th December 2018, Ganesh was assaulted and on 16th December 2018, his body was found in the morning, in the house. It is the

prosecution case that on 15th December 2018, the deceased–Ganesh and others met for *bhishi* and that one Vijay Jadhav got the *bhishi*. It is alleged that deceased – Ganesh demanded an amount of Rs. 25,000/- out of the said *bhishi* amount, as he was in need of money. It is alleged that co-accused – Gurunath Gharat opposed the demand made by Ganesh (deceased), pursuant to which, there was an altercation between Ganesh and Gurunath, which was resolved by the members, who were present at the spot. Admittedly, the applicants were not involved or concerned with the quarrel that took place between co-accused–Gurunath and deceased–Ganesh. Admittedly, the applicants are not members of the *bhishi*. The prosecution case rests on circumstantial evidence. It appears that there are statements which only show that the applicants were later sitting on a *katta* on the road and had abused the deceased. The dead body of Ganesh was found inside his house, on the bed. Initially, ADR was registered, however, later i.e. after two days, the FIR was lodged. The cause of death is stated to be 'death due to asphyxia due to strangulation and smothering'.

4 Learned APP is unable to show any motive for the applicants to cause Ganesh's death. The applicants have no antecedents. The applicants are in custody since 16th January 2018. Investigation is complete and charge-sheet is filed.

5 Considering the aforesaid, in particular, the role of the applicants, the application is allowed on the following terms & conditions

ORDER

- (i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- each, with one or two sureties in the like amount;

- (ii) The applicants shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;

- (iii) The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

- (iv) The applicants shall inform their latest place of residence and mobile contact numbers and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

- (v) The applicants to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;
- (vi) The applicants shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of their release;
- (vii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants' bail.

6 The application is accordingly disposed of.

7 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

8 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.